

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRIMINAL NO. 13-10200-GAO

UNITED STATES OF AMERICA

v.

DZHOKHAR A. TSARNAEV,
Defendant.

ORDER
February 20, 2014

O'TOOLE, D.J.

The defendant moves to file under seal an unredacted version of a supplemental memorandum in support of its motion to vacate special administrative measures. The memorandum contains information about the defendant's sisters' visits to FMC Devens, which prison officials wish to remain undisclosed.

Although the public has a presumptive right of access to judicial documents, such right "is not unfettered." Siedle v. Putnam Invs., Inc., 147 F.3d 7, 10 (1st Cir. 1998). "Important countervailing interests can, in given instances, overwhelm the usual presumption and defeat access." Id. Here, the "countervailing factor[] favoring nondisclosure" is the privacy interest of the defendants' sisters. United States v. DiMasi, 2011 WL 915349, at *1 (D. Mass. Mar. 16, 2011). Therefore, it is appropriate for the defendant to file its supplemental memorandum under seal. A redacted version, provided by the defendant, will be placed on the public docket so that nondisclosure will not be more expansive than necessary.

The defendant also moves to file under seal an ex parte declaration by the mitigation specialist. As grounds for filing the declaration under seal, the defendant contends that it

discusses the defense investigation and theories that constitute attorney work product. Public disclosure of such information would result in the government's inappropriate access to otherwise confidential information.

Accordingly, the defendant's Motion to Seal (dkt. no. 170) is GRANTED.

It is SO ORDERED.

George A. O'Toole, Jr.
United States District Judge